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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 CHRISTOPHER BISTRYSKI,

12 Plaintiff,

13 v.

14 DOC HEALTH SERVICES OF
15 STAFFORD CREEK CORRECTIONS
16 CENTER, DOC HEALTH SERVICES ON
17 MONROE CORRECTIONAL COMPLEX
18 – SPECIAL OFFENDERS CENTER,
19 SCOTT LIGHT, DR. MICHAEL FURST,
20 CHARLES CASEY, SHERYL ALBERT,
21 DR. G. STEVEN HAMMOND, Chief
22 Medical Officer, STEVEN SINCLAIR,
23 Secretary of Washington DOC,
24 individually and in their official capacities,

Defendants.

CASE NO. 17-5369 RJB

ORDER ON REPORTS AND
RECOMMENDATIONS AND RE-
REFERRING CASE

THIS MATTER comes before the Court on the Reports and Recommendations of U.S. Magistrate Judge Theresa L. Fricke. Dkts. 33, 34, and 35. The Court has reviewed the Reports and Recommendations, objections, if any, and the remaining file and is fully advised.

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On December 19, 2017, Plaintiff's motion to amend was granted (Dkt. 31), his Amended Complaint (Dkt. 32) was filed, and the Reports and Recommendations recommending this Court grant both motions to dismiss, with prejudice, (Dkts. 33 and 34) were filed. A few days later, on December 22, 2017, a Report and Recommendation recommending denial of the Plaintiff's motion for a temporary restraining order and for a preliminary injunction, based in part on the recommendations on the motions to dismiss, was filed. Dkt. 35. All the Reports and Recommendations refer to the original complaint (Dkt. 6).

DISCUSSION

DISCUSSION

1 “An amended complaint supersedes the original, the latter being treated thereafter as non-
2 existent.” *Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011)(*internal quotations and*
3 *citations omitted*).

4 The Court should decline to adopt the Reports and Recommendations regarding the
5 motions to dismiss (Dkts. 33 and 34) and re-refer the case. The Reports and Recommendations
6 address the allegations in the original complaint. The motions to dismiss (Dkts. 21 and 23) also
7 address allegations in the original complaint and should be denied as moot due to the filing of the
8 Amended Complaint. They may be re-filed, if appropriate. (The Court notes that many of the
9 prior moving parties have renewed their motion (Dkt. 38) based on the allegations in the
10 Amended Complaint.) It is not clear whether Plaintiff’s objections relate to allegations in the
11 original complaint (Dkt. 6) or in the Amended Complaint (Dkt. 32). Dkt. 40.

12 Further, the Court should decline to adopt the Report and Recommendation
13 recommending the denial of Plaintiff’s motion for a temporary restraining order and for a
14 preliminary injunction (Dkt. 35), and re-refer assessment of the Plaintiff’s motion (Dkt. 24) after
15 consideration of the December 29, 2017 motion to dismiss (Dkt. 38) and in light of the
16 allegations in the Amended Complaint.

17 **ORDER**

18 Accordingly, it is **ORDERED** that:

- 19 • The Court **DECLINES TO ADOPT** Reports and Recommendations (Dkts. 33,
20 34, and 35);
- 21 • The Defendants’ Motions to Dismiss (Dkts. 21 and 23) **ARE STRICKEN AS**
22 **MOOT** in light of the newly Amended Complaint; and
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- 1 • The case **IS RE-REFERRED** to U.S. Magistrate Judge Theresa L. Fricke for
2 proceedings consistent with this order.

3 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
4 to any party appearing *pro se* at said party's last known address.

5 Dated this 9th day of January, 2018.

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8 ROBERT J. BRYAN
9 United States District Judge
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